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November 15, 2010

**VIA E FILING**

Jocelyn D. Boyd, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Columbia, SC 29210

RE: Application of Crexendo Business Solutions, Inc. for Certificate  
Of Public Convenience and Necessity  
Docket No.: 2010-252-C

Dear Ms. Boyd:

As the record will reflect, this firm represents Crexendo Business Solutions, Inc. ("Crexendo"), the Applicant in the above. By Directive dated November 10, 2010, the South Carolina Public Service Commission ("Commission") determined to deny Crexendo's application for a Certificate of Public Convenience and Necessity. For the reasons herein set-out, the Directive should be vacated.

This matter was heard before The Honorable F. David Butler, Hearing Examiner, on October 18, 2010. After taking and hearing testimony from Jeff Korn, the Applicant's Senior Vice President and Corporate Secretary, the Hearing Examiner requested additional information from the Applicant. On November 3, 2010, the Applicant provided supplemental evidence as requested by the Hearing Examiner. On November 8, 2010, the Applicant submitted a proposed order, after submitting it to the Office of Regulatory Staff ("ORS") for review and comment, granting the Applicant a Certificate Of Public Convenience and Necessity. By Directive dated November 10, 2010, the Commission summarily denied the application in this docket. However, the Hearing Examiner did not provide the Applicant and other parties of record with his proposed order denying Crexendo's application prior to the Commission's action of November 10, 2010.

The Hearing Examiner was appointed by this Commission by order dated August 4, 2010. The Hearing Examiner was vested with the authority to conduct the hearing in this matter. After conducting the hearing in this matter and receiving all evidence and testimony into the record, the Commission's regulations require the Hearing Examiner to

mail to the parties of record a proposed order. The proposed order shall contain a statement of facts relied upon in formulating such order and each issue of fact or law necessary to it. Any

party of record will then have ten days in which to file exceptions, present briefs, and file written requests for oral argument to the Commission if it is desired to do so. If exceptions and briefs are filed within the prescribed time period, the Commission will consider the points raised therein and will issue its order based upon the record of the formal proceeding, the proposed order, and the exceptions and briefs filed. If a written request for oral argument is filed, the Commission will establish a date for such oral argument to be heard and will notify all parties of record as to date, time and place for such argument. Thereafter, the Commission will issue its order based upon the record of the formal proceeding, the proposed order, any exceptions and briefs filed, and oral argument presented. If no exceptions, briefs, or written requests for oral argument are received within the prescribed ten days, the Commission will issue its order based upon the record of the formal proceeding and the proposed order. SC Reg. §103-841.C.

Here, the Hearing Examiner failed to mail his proposed order to the parties of record or provide the parties with a statement of facts relied upon in formulating his order or any issue of fact or law necessary to his order. As a consequence, the Applicant and other parties were denied the opportunity to file exceptions, present briefs or request oral argument prior to the Commission's Directive denying the application. The Commission's decision denying Crexendo's application in violation of the Commission's regulation and established procedure is made upon unlawful procedure and deprives Crexendo due process of law. S.C. Code Ann. Section 1-23-380; Stono River Environmental Protection Association v. South Carolina Department of Health and Environmental Control, 305 S.C 90, 406 S.E.2d 340 (1991).

For the reasons set-out, the Applicant hereby moves that the Commission vacate its November 10, 2010, Directive denying the application herein. The Applicant further moves that prior to any decision with respect to Crexendo's application, the Commission afford the Applicant and other parties with the opportunity to file exceptions, file briefs, request oral argument or otherwise be heard concerning any order proposed by the Hearing Examiner as required by the Commission's regulations and due process of law.

Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

SE/jcl

cc: F. David Butler, Esquire  
C. Lessie Hammonds, Esquire  
Margaret M. Fox, Esquire  
Jeffery Korn



## CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Application of Crexendo Business Solutions, Inc. for Certification of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services and for local service offerings to be regulated in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in docket No. 97-467-C; and for interexchange service offerings to be regulated in accordance with procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

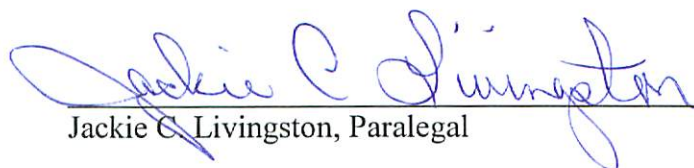
DOCKET NO.: 2010-252 -C

PARTIES SERVED: C. Lessie Hammonds, Esquire  
Office of Regulatory Staff  
P.O. Box 11263  
Columbia, SC 29211

Margaret M. Fox, Esquire  
McNair Law Firm, P.A.  
P. O. Box 11390  
Columbia, SC 29211

PLEADING: Motion to Vacate November 15, 2010

November 15, 2010

  
Jackie C. Livingston, Paralegal